ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[AMS–FRL–5214–7]

Regulation of Fuels and Fuel Additives: Standards for Reformulated and Conventional Gasoline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: Under the Clean Air Act, as amended in 1990 (CAA or the Act), the Environmental Protection Agency (EPA or the Agency) promulgated anti-dumping regulations for conventional gasoline (gasoline not certified as reformulated gasoline (RFG)). These regulations require that conventional gasoline not be more polluting than it was in 1990. The regulations for conventional gasoline include provisions for the development of individual refinery baselines and other compliance provisions. This proposal would modify the requirements for obtaining a baseline adjustment due to the production of JP–4 jet fuel in 1990. Additionally, EPA is proposing to allow a baseline adjustment due to the inability to acquire extremely sweet crude that had been available in 1990 and from which the gasoline used to develop the 1990 individual baseline was obtained. With regard to both of these baseline adjustment proposals, EPA is issuing a three-month administrative stay (which is published elsewhere in this issue of the **Federal Register**) of the applicable portions of the December 1993 final rule and proposes to extend such stay by rule pending the outcome of this rulemaking. EPA is also proposing a baseline adjustment for refiners which have both extremely low baseline sulfur and olefin levels. A refiner is severely limited in its ability to comply with its individual baseline when the baseline values of both of these parameters are very low. For refiners which qualify for one or more of the baseline adjustments proposed today, EPA proposes to apply the adjustments to gasoline produced in 1995. Finally, EPA is also proposing to revise its regulations concerning the publication and confidentiality of individual baselines and information submitted to obtain an individual baseline.

DATES: EPA will conduct a hearing (date and location to be announced) if a request for such is received by September 5, 1995. The comment period on this document will close September 5, 1995 unless a hearing is requested, in which case the comment period will close 30 days after the close of the public hearing.

ADDRESSES: Interested parties may submit written comments (in duplicate, if possible) to Public Docket No. A–95–03 at Air Docket Section, U.S. Environmental Protection Agency, Waterside Mall, Room M–1500, 401 M Street S.W., Washington, D.C. 20460. The Agency requests that commenters also send a copy of any comments to Christine M. Brunner at the address listed below in the ''Further Information'' section.

The support document containing detailed discussion of today's proposal is contained in Public Docket A–95–03. Materials relevant to the reformulated gasoline final rule are contained in Public Dockets A–91–02 and A–92–12. These dockets are located at Room M–1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460. The docket may be inspected from 8:00 a.m. until 5:00 p.m. Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Christine M. Brunner, U.S. EPA (RDSD–12), Regulation Development and Support Division, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313) 668–4287.

SUPPLEMENTARY INFORMATION: *To Request Copies of This Document Contact:* Delores Frank, U.S. EPA (RDSD–12), Regulation Development and Support Division, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313) 668–4295.

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I. Introduction

Compliance with certain aspects of the reformulated and conventional gasoline regulations depends on the individual baseline of the refinery or refiner.[1] The individual baseline is the set of fuel parameter values, emissions and volumes which represent the quality and quantity of the refiner's 1990 gasoline. See 40 CFR 80.91. EPA's regulations establish requirements for developing an individual baseline. For specific situations, the Agency allowed the baseline fuel parameters, volumes and emissions values to be adjusted to reflect certain limited unique instances. Allowable circumstances under the regulations include unforeseen downtime of a gasoline blendstock producing unit, nonannual maintenance, work-in-progress and

[1] In general, the anti-dumping provisions apply to refiners or importers of conventional gasoline. The baseline adjustment provisions proposed in today's notice, however, are applicable only to refiners and their refineries.

production of JP–4 jet fuel. In such cases, EPA has ''case-by-case discretion'' to grant variances or even dispensation from a rule where imposition of the requirement would result in minimal environmental benefit but would extremely burden a regulated party.[2]

This notice of proposed rulemaking (NPRM) proposes to allow baseline adjustments for three situations where parties would be extremely burdened by the current regulations were relief not granted. Specifically, today's notice proposes to revise the requirements for a baseline adjustment due to JP–4 jet fuel production in 1990, to add a provision addressing the use of extremely sweet crude in 1990 which is no longer available, and to add a provision addressing compliance difficulties arising from a baseline which is very low in both sulfur and olefins. EPA is also issuing a three-month administrative stay, which is published elsewhere in this issue of the **Federal Register**, with regard to the first two baseline adjustment issues above pending reconsideration of the applicable provisions by the Agency. In addition, EPA proposes to extend the stay until final action is taken on the regulatory changes proposed herein. For refiners which qualify for one or more of the baseline adjustments proposed today, EPA proposes to apply the adjustments to gasoline produced in 1995. This notice also proposes to revise the regulations concerning the publication and confidentiality of individual baselines and the information submitted to receive such a baseline. Comments and supporting data are requested on any aspect of today's document.

II. JP–4 Baseline Adjustment

A. Introduction

JP–4 jet fuel, the use of which is being phased out by the Defense Department, was produced by many refiners under contract with the Defense Department in 1990. Because the JP–4 blendstock is now likely to be used in gasoline, most of that blendstock cannot be used in gasoline without first going through a reformer to increase its octane to suitable gasoline levels. Due to the high aromatic content of streams after reforming, the toxic emissions of the current gasoline of a refiner which produced JP–4 in 1990 will likely increase relative to its 1990 values. In addition, it is possible that gasoline production would increase (relative to 1990 production) due to movement of blendstocks directly and indirectly from JP–4 to gasoline. The impact of the increase in aromatic content and/or additional volume due to JP–4 phaseout will, of course, affect certain refiners more extremely than others.

The current regulations provide for an adjustment to a refiner's individual baseline due to production of JP–4 in 1990 if three criteria are met. The criteria were fashioned to ensure that the requirements of *Alabama Power* were met. First, JP–4 baseline adjustments will be allowed only for a refiner which will not produce reformulated gasoline. If a refiner granted such an adjustment subsequently produces reformulated gasoline, its conventional gasoline compliance would be subject to its original unadjusted baseline during the current averaging period and all subsequent years. For multi-refinery refiners, this provision applies on a refiner-wide basis. Second, a JP–4 baseline adjustment is available primarily to qualifying single-refinery refiners. A multi-refinery refiner could also receive an adjustment if each of its refineries produced JP–4 in 1990 and each refinery also met the other requirements for obtaining the adjustment. Third, the refiner is required to show that a significant burden would exist if no baseline adjustment was allowed. The current regulations require that the ratio of a refinery's 1990 JP–4 production to its 1990 gasoline production equal or exceed 0.5 in order to qualify as a significant burden.

EPA expected minimal negative environmental affects from allowing baseline adjustments under the criteria specified in the current regulations because (1) the number of refineries meeting the criteria for a baseline adjustment is expected to be quite small, and (2) the total production of all such refineries is also small.

B. Proposal

In today's notice, EPA proposes provisions related to JP–4 baseline adjustments which are essentially as contained in the direct final rule (DFRM), published July 20, 1994 (59 FR 36944).[3] The provisions are discussed below. For detailed discussion of the provisions proposed today, refer to the support document for this rule, ''Regulation of Fuels and Fuel Additives: Standards for Reformulated and Conventional Gasoline—Detailed Discussion and Analysis'', Air Docket A–95–03.

1. Multiple-Refinery Requirement

EPA proposes that the following conditions would have to be met by a multi-refinery refiner in order for that refiner to qualify for a baseline adjustment for 1990 JP–4 production at one or more of its refineries:

(1) *Produced JP–4 at one or more of its refineries in 1990.*

The current JP–4 baseline adjustment provisions for multi-refinery refiners require each refinery to have produced JP–4 in 1990. EPA believes it may use its discretion to provide relief because the requirements of *Alabama Power* are satisfied. If a multi-refinery refiner qualifies for a baseline adjustment under this criterion, it would (1) determine the adjusted baseline of the refinery(ies) which actually produced JP–4 in 1990 and (2) determine its anti-dumping compliance on an aggregate basis.

(2) *Has a 1990 JP–4 to gasoline ratio of at least 0.15 (see discussion below regarding JP–4 baseline adjustment ratio).*

(a) For each individual refinery, if all of its refineries produced JP–4 in 1990, in which case the refiner may comply with the anti-dumping requirements on an individual or aggregate basis; or

(b) On a refiner-wide basis, in which case the refiner must determine an individual baseline for each of its refineries but must comply with the anti-dumping requirements on an aggregate basis; and

(3) *Will not produce RFG at any of its refineries.*

EPA requests comments on this change to the current JP–4 baseline adjustment provisions concerning multi-refinery refiners.

2. JP–4 Baseline Adjustment Ratio

The current regulations for a baseline adjustment require that the ratio of the refinery's 1990 JP–4 production to its 1990 gasoline production must equal or exceed 0.5. Based on responses from affected refiners, very few refiners under contract to produce JP–4 would have the relief intended by the provision. Further, EPA has evaluated data it received subsequent to December 1993 concerning 1990 JP–4 and gasoline production for refiners (both multi- and

[2] *Alabama Power Company* v. *Costle,* 636 F.2d 323.357 (D.C. Cir 1979).

[3] Since EPA received adverse comments on the changes specified in the DFRM with regard to JP–4 baseline adjustments, EPA withdrew this DFRM based on EPA's determination, announced in the DFRM, that such provisions would take effect only if no persons submitted adverse comments or requested an opportunity to comment. For more discussion, see the support document, ''Regulation of Fuels and Fuel Additives: Standards for Reformulated and Conventional Gasoline—Detailed Discussion and Analysis'', Air Docket A–95–03.

single refinery refiners)[4] and is hereby proposing that the ratio be reduced to 0.15. EPA believes this ratio will allow three to four refiners which dedicated a substantial amount of 1990 production to JP–4 production and for which converting the associated feedstock for use in gasoline would be a severe economic burden. This value is in line with the ratio options that were suggested by commenters during the original rulemaking. At a ratio of less than 0.15, EPA believes the impact on benzene and aromatics may make it more costly for refiners to comply with the regulations, though it is unlikely that such refiners will be forced out of business or experience extreme burden.

EPA expects minimal negative environmental affects due to the reduction of the ratio requirement to 0.15 because the expanded provision will still apply to a very limited number of refiners producing a limited amount of conventional gasoline. EPA requests comments on the proposal discussed above.

3. Comments Received on the DFRM

For a discussion of comments received on the DFRM, please see the support document for this rule (''Regulation of Fuels and Fuel Additives: Standards for Reformulated and Conventional Gasoline—Detailed Discussion and Analysis'', Air Docket A–95–03).

III. Crude Quality Baseline Adjustment

A. Introduction

Crude sulfur content is increasing nationwide[5] and, while for most refiners increases in crude sulfur content should be considered manageable, such increases might be devastating for certain refiners. EPA has also been informed that the quality of the crude oil (with regard to sulfur content) available to refiners in PADD IV has been deteriorating faster than the rest of the U.S. since 1990.[6] Additionally, refiners in this region do not have access to imports of foreign crudes other than those from Canada. Thus, the quality of crude oil reasonably and economically available to these refiners, from traditional or alternative sources, is quite limited. Prior to promulgation of the December 1993 rules, EPA did not know that the deterioration of crude oil available to certain refiners (with regard to increasing sulfur content) might in some cases force them to cease operation in order to avoid noncompliance as compliance options for such a refiner might be prohibitively expensive.

The current regulations generally do not allow baseline adjustments for changing crude quality or availability. However, as discussed in the preamble to the December 1993 final rule, EPA recognized that a refiner's ability to comply with its individual baseline can be extremely burdensome due to certain factors, such as changes in crudes, markets, and fuel specifications. As with the work-in-progress baseline adjustment and the JP–4 baseline adjustment which is discussed above, EPA believes it has the authority to provide limited relief in the form of a baseline adjustment in those situations where the anti-dumping regulatory burden is extremely onerous and where requiring compliance would yield little or no environmental gain. Thus, EPA is proposing such a baseline adjustment where a dramatic increase in crude sulfur content has occurred which could severely affect the anti-dumping compliance of refiners with extremely low baseline sulfur values. EPA requests comments on the discussion and proposed criteria presented today. EPA also requests data which supports or refutes the information presented in this notice.

B. Proposal

EPA proposes to allow a baseline adjustment only for the deterioration of crude sulfur levels as it is unaware of other inherent crude properties which strongly and directly affect baseline fuel parameters. Comments are requested on other inherent crude properties which have significantly deteriorated since 1990 and which directly and significantly affect the values of any of the fuel parameters for which an individual baseline value must be determined. Comments concerning crude quality changes since 1990, as well as future trends (including identifying whether crude sulfur content increases will flatten off or continue to increase), especially on a regional or PADD basis, are also requested.

As with other baseline adjustments such as work-in-progress, the proposed criteria for obtaining an adjustment are necessarily stringent so as to provide relief only in cases of extreme burden and to maintain the environmental benefits of the (anti-dumping) program. EPA does not intend to allow adjustments for all refiners who have experienced increasing crude sulfur levels in the time period since 1990 or will experience such increases in the future. Thus, the existing provisions in section 80.91 of the regulations still apply, i.e., no adjustments for crude quality or availability changes are allowed unless the proposed criteria are met.

If a refiner meets the following proposed criteria, it would be able to petition for a baseline adjustment to account for crude sulfur changes:

(1) *The refinery produces no reformulated gasoline.* While the anti-dumping requirements, in general, apply to all conventional gasoline whether or not reformulated gasoline is also produced, in these specific cases no dumping will occur due to reformulated gasoline production. If a refinery granted such an adjustment subsequently produces reformulated gasoline, its conventional gasoline compliance would be subject to its original unadjusted baseline during the current averaging period and in all subsequent years.

(2) *A refiner has an unadjusted baseline value of not more than 50 ppm.* EPA believes that requiring a threshold value of 50 ppm is appropriate because higher baseline values would indicate that the refiner's 1990 crude slate was not extremely low in sulfur. Additionally, a refiner with a higher baseline sulfur value should have sufficient leeway, e.g., types of crudes utilized and processing flexibility, to comply with its individual baseline. EPA requests comments on the appropriateness of requiring a threshold value, and on the suitability of 50 ppm or another value as a threshold value.

(3) *The affected refinery of a multi-refinery refiner may not be aggregated with the refiner's other refineries for compliance purposes.* Since both the unadjusted and adjusted baselines must be determined, if a refinery granted such an adjustment subsequently is included in an aggregate baseline, its conventional gasoline compliance would be subject to its original unadjusted baseline during the current averaging period and in all subsequent years.

(4) *The installation of the refinery units necessary to process higher sulfur crudes to comply with the refinery's actual (i.e., unadjusted) baseline would cost $10 million or be at least 10 percent of the depreciated book value of the refinery as of January 1, 1995.* The purpose of this provision would be to ensure that an adjustment be limited to cases of extreme burden or economic hardship and de minimis environmental impact, and is the same economic burden requirement which must be met

[4] Petition for Adjustment to Anti-Dumping Baseline, Atlas Processing Company, Penzoil Products Company, Attachments B and C, March 29, 1994.

[5] E.J. Swain, ''U.S. crude slate continues to get heavier, higher in sulfur,'' *Oil & Gas Journal,* p. 37, January 9, 1995.

[6] Oil & Gas Journal, January 9, 1995.

by a refiner seeking a work-in-progress baseline adjustment.[7] EPA requests comments on this criterion and whether the specified values are adequate given the type of unit (e.g., hydrotreater) that a refiner would have to install in order to comply. EPA also requests comments on (1) the economic burden, if any, of producing and selling gasoline blendstocks in lieu of finished gasoline, and (2) the economic burden of complying with an unadjusted baseline under the circumstances described above by modifying refinery operations in ways other than installing major refinery units. For instance, the principal source of sulfur in gasoline is the catalytic gasoline blendstock. An option for lowering sulfur would be to lower the catalytic gasoline end point and shift the back (heavy, high boiling) portion of the gasoline into the distillate stream. While this would move barrels of crude oil into distillates and out of gasoline and shift the refinery product mix[8], it would lower the sulfur content of the catalytic gasoline. EPA also requests information on the effect of crude sulfur levels on gasoline sulfur.

(5) *The refiner has access to a geographically-limited crude supply.* The refiner must show that it could not reasonably or economically obtain crude oil from an alternative source that would permit it to produce conventional gasoline which would comply with its unadjusted baseline. EPA requests comment on this proposed provision and on which criteria that should be used to evaluate ''reasonably and economically available''.

(6) *The refiner has experienced an average crude sulfur increase of at least 25 percent since 1990.* EPA proposes that the highest annual average crude sulfur slate utilized during the period 1991–1994, inclusive, be used for comparison to 1990 to determine if the ''25 percent'' criterion is met. Comments are requested concerning the level of difference between 1990 and post-1990 crude sulfur contents that should exist in order to obtain an adjustment, and whether 1991–1994 is an appropriate comparison period or whether some other comparison should be established. Comments are also requested as to whether it is appropriate, and feasible, to distinguish crudes used solely for gasoline production from crudes used to produce other refinery products. If such distinction is possible, EPA believes it would be appropriate to base all calculations pertaining to this proposed baseline adjustment only on those volumes of each crude used to produce gasoline.

(7) *Gasoline sulfur changes are directly and solely attributable to the crude sulfur change, and not due to alterations in refinery operation nor choice of products.*

(8) *A baseline adjustment is available to both single-refinery and multi-refinery refiners.*

(9) *The eligibility of a refinery of a multi-refinery refiner for this proposed baseline adjustment is not dependent on the RFG production of the other refineries of the refiner.*

EPA is proposing several options for determining the adjusted baseline sulfur value if a refiner meets the above criteria and is approved for a baseline adjustment. EPA will finalize only one option; certain portions of the other proposed options could also be incorporated. For this reason, EPA requests comments on all aspects of the options proposed. For brevity, only OPTION 1 is included in the proposed regulatory language. EPA proposes that, regardless of which option is finalized, the adjusted baseline sulfur value may not exceed 338 ppm, the annual average value specified in 40 CFR 80.91(c)(5)(iii). See the support document for this rule for more discussion related to the various options presented (''Regulation of Fuels and Fuel Additives: Standards for Reformulated and Conventional Gasoline—Detailed Discussion and Analysis'', Air Docket A–95–03.)

Option 1: EPA proposes that the adjusted baseline sulfur value be related to the ratio of the sulfur value of the highest sulfur crude utilized in 1994 to the average sulfur content of the crude slate utilized in 1990. Under this option, if a refiner utilized two crudes in its gasoline production in 1994 with sulfur levels of 1000 ppm and 2100 ppm, the higher sulfur crude would be utilized in the determination of the adjusted baseline sulfur value. If, for example, the 1990 average crude sulfur content was 500 ppm (resulting, say, in a 20 ppm baseline), the adjusted baseline sulfur value would be 84 ppm 20 ppm $\times$(2100/500). EPA requests comments on this proposed option, including whether the highest sulfur crude from 1991–1994 should be used rather than just considering 1994.

Option 2: EPA proposes that the adjusted baseline sulfur value be related to the ratio of the highest average sulfur content of the crude slate utilized in 1991, 1992, 1993 or 1994 to the average sulfur content of the crude slate utilized in 1990. Using the 1990 baseline and crude sulfur values from Option 1, and average crude sulfur contents of 1000, 1100, 1400, and 1300 ppm for years 1991, 1992, 1993 and 1994, respectively, the adjusted baseline sulfur value would be 56 ppm, i.e., 20 ppm $\times$[1400/500]. EPA requests comments on this proposed methodology and solicits alternative methods of determining the adjusted baseline sulfur value.

Option 3: EPA proposes that an adjusted baseline sulfur value be determined for each year through 1999. Beginning January 1, 2000, the adjusted baseline sulfur value would be the same as it was in 1999. EPA proposes that the annual adjusted value be determined over the four years prior to the year before the new value takes effect, except for 1995 and 1996 which would be determined as specified in OPTION 1 above (and for which the adjusted baseline sulfur value would be the same). EPA also proposes that if less than a 25 percent difference occurs between the 1990 average crude sulfur level and the average crude sulfur level over a four-year time period, the refiner would receive no additional adjustments, and its most recent adjusted baseline sulfur value would become its permanent baseline sulfur value at that point. For example, the standard for 1997 would be based on the ratio of the average sulfur content of the crude slate utilized in 1992, 1993, 1994 or 1995 to the average sulfur content of the crude slate utilized in 1990. EPA proposes that the resulting adjusted baseline sulfur value be submitted to the Agency for evaluation and approval by June 1 of the year preceding the year for which it would be the standard. In the example given, the adjusted baseline value (and all supporting information) would have to be submitted by June 1, 1996.

EPA requests comments on a refiner's ability, given the other requirements of this proposed option and the proposed requirements used to qualify for an adjusted baseline sulfur value, to choose to process higher sulfur crudes.

Option 4: EPA proposes requirements similar to those presented for option 3 except that adjustments will only be allowed through 1997, i.e., the duration of the simple model years. Beginning in 1998, the adjusted baseline sulfur value would be the value in 1997.

Option 5: EPA proposes that the adjusted baseline sulfur value be the unadjusted baseline sulfur value plus 50 ppm. EPA requests comments on this proposed option, including whether 50 ppm is an appropriate value. EPA specifically seeks comment on the appropriateness of using 100 ppm or 150 ppm instead of 50 ppm.

These five proposed options all result in an adjusted baseline sulfur value

[7] 40 CFR 80.91(e)(5)(v).

[8] Because sulfur content of petroleum products increases with the boiling range of the material.

which is known prior to the period of production, thus treating the affected refiner like all other refiners. If one of OPTIONS 1–5 becomes final, a refiner might have to modify refinery operations in the future to accommodate increasing crude sulfur levels. However, future refinery operation modifications will likely be required of most refiners, without benefit of a baseline adjustment, in order to deal with the increasing crude sulfur levels. The purpose of this proposed baseline adjustment is to provide relief in certain cases where increasing crude sulfur levels could make compliance with the anti-dumping requirements extremely difficult. However, baseline adjustments are intended to reduce, not eliminate, the burden associated with complying with the anti-dumping regulations in situations where the burden is onerous and the environmental impact is minimal. If the burden were totally eliminated, then this criteria would no longer be met.

EPA received a suggested option proposing that a refiner would be able to produce conventional gasoline which does not meet, on average, the requirements of its individual baseline if it could show that deviation from its baseline was directly and solely attributable to crude sulfur change, and not due to alterations in refinery operation or choice of products. The suggested option also contained other requirements a refiner would have to meet which are essentially those proposed today by EPA in order to qualify for this proposed baseline adjustment.

EPA has many concerns about the concept and detail of this suggested option. This option basically exempts a qualifying refiner from complying with its anti-dumping compliance baseline if the refiner can show, at the end of the compliance period, that deviation from its baseline was directly and solely attributable to crude sulfur change. Thus, unlike all other refiners, a qualifying refiner would have no clearly defined standard prior to year of production. Additionally, if EPA was not satisfied that deviation from its baseline was directly and solely attributable to crude sulfur change, the refiner would have to determine compliance relative to its unadjusted baseline and would likely be out of compliance.

EPA requests comments as to whether, in order to show that increased gasoline sulfur is due solely to the increased crude sulfur, no changes in refinery configuration or refinery operation would be allowed. Or is it possible to ''back out'' the effects of such changes? If it is not possible to ''back out'' the effects of refinery changes to determine just the effect of crude sulfur on gasoline sulfur, then a refiner which would use this option could potentially not make any refinery changes in order to qualify for a baseline adjustment. Alternatively, if refinery changes were made under this suggested option, it would seem that the refiner's compliance baseline would revert back to its unadjusted baseline. EPA requests comments on this suggested option, particularly addressing its enforceability and competitive concerns.

Since today's proposed baseline adjustment focuses on sulfur (unless commenters suggest other baseline fuel parameters which are directly affected by crude oil quality), if the suggested approach (which is not part of OPTIONS 1 through 5) were adopted, EPA believes it would be more appropriate, under the suggested option, that a refiner be exempt only from complying with its anti-dumping compliance baseline for sulfur under the simple model and NO_X emissions under the complex model, to the extent that increased sulfur affects NO_X emissions. The refiner would have to comply with NO_X emissions once the effect of increased sulfur is factored out. Basically, the refiner would (1) determine its baseline NO_X emissions after substituting its annual average sulfur for the compliance period for its unadjusted baseline sulfur value, (2) determine its annual average NO_X emissions for the compliance period, and (3) compare the values in (1) and (2) for the purposes of determining compliance. EPA does not believe that a refiner should be exempt from its other anti-dumping compliance baselines, i.e., all other simple model requirements as well as exhaust benzene and exhaust toxics emissions under the complex model since those emissions are only minimally affected by sulfur. Comments are requested on these details of this suggested option.

EPA expects minimal negative environmental affects from allowing baseline adjustments under the criteria proposed today due to the small number of refineries expected to qualify for a baseline adjustment and the relatively small total production volume of all such refineries.

IV. Baseline Adjustment for Very Low Baseline Sulfur and Olefins

A. Introduction

In addition to compliance difficulties resulting from crude quality changes, the Agency also recognizes that very clean individual baselines can make compliance extremely difficult or impossible due to limited maneuverability about the clean baseline and limited flexibility with regard to annual averaging when certain baseline fuel parameter values are very low. During the review and approval of individual baselines, EPA was informed that extremely low baseline sulfur and olefin values (e.g., below 30 ppm sulfur and 1.0 volume percent olefins) could force a refiner to cease gasoline production. This was not EPA's intention when it developed the reformulated gasoline and anti-dumping requirements. Refiners with very clean baselines will presumably produce the least polluting gasoline of all refiners. (For more discussion on these proposed baseline adjustment provisions, see the support document, ''Regulation of Fuels and Fuel Additives: Standards for Reformulated and Conventional Gasoline—Detailed Discussion and Analysis'', Air Docket A–95–03.)

EPA believes it has the authority to provide limited relief in the form of a baseline adjustment in those few cases where the regulatory burden is extremely onerous and where requiring compliance would yield little or no environmental gain. EPA is proposing such a baseline adjustment in cases where both the baseline sulfur and baseline olefins values are very low and certain other conditions are met. EPA requests comments on the discussion and proposed criteria presented today.

B. Proposal

EPA proposes several criteria a refiner must meet in order to petition for a baseline adjustment to account for restricted maneuverability due to very low baseline sulfur and olefin values. EPA does not necessarily intend to allow adjustments for all refiners who foresee restricted maneuverability due to a clean individual baseline. EPA requests comments on the appropriate level of stringency to apply to the minimum criteria that must be met in order to receive an adjustment.

(1) *EPA proposes to allow an adjustment for individual baselines when the sulfur and olefin contents are extremely low, defined as values below 30 ppm sulfur and 1.0 vol% olefins.* These values are identical to the minimum levels given in the negligible quantity provision (see 40 CFR 80.91(d)(3)). Comments are requested on other fuel components which, when they are found to be extremely low in an individual baseline, can restrict the refiner's compliance maneuverability to the point of severe economic burden.

(2) *EPA proposes that a refiner seeking a baseline adjustment for low*

baseline levels of sulfur and olefins must show that the installation of the refinery units necessary to comply with its actual (i.e., unadjusted) baseline would cost $10 million or be at least 10 percent of the depreciated book value of the refinery as of January 1, 1995. EPA requests comments on this criterion and specifically whether such amounts are adequate given the type of unit (e.g., hydrotreater) that a refiner would have to install in order to comply. EPA also requests comments on (1) the economic burden, if any, of producing and selling gasoline blendstocks in lieu of finished gasoline, and (2) the economic burden of complying with an unadjusted baseline under the circumstances described above by modifying refinery operations in ways other than installing major refinery units.

(3) *EPA proposes that such an adjustment be available to both single-refinery and multi-refinery refiners and that the affected refinery of a multi-refinery refiner may not be aggregated with the refiner's other refineries for compliance purposes.*

(4) *If a refiner meets the above criteria and is approved for a baseline adjustment, EPA proposes that the baseline adjustment simply amount to setting the annual average sulfur and olefin values to 30 ppm and 1.0 volume percent, respectively.* If at any time the refinery's baseline is aggregated with another refiner's baseline for compliance purposes, the applicable individual baseline would revert to the unadjusted baseline. The summer and winter values would each also be set to 30 ppm for sulfur and 1.0 volume percent for olefins. Comments are requested on the methodology of setting the adjusted baseline sulfur and olefin values. An alternative approach to setting seasonal values for sulfur and olefins would be to maintain the actual (i.e., unadjusted) proportion of summer to winter sulfur and olefin values.

As with the baseline adjustment proposals described earlier, EPA expects minimal negative environmental effects from allowing baseline adjustments under the criteria proposed in this section due to the small number of refiners which might qualify for such an adjustment and the small amount of additional gasoline that would be affected by the proposed baseline adjustments.

V. Stay and Reconsideration of the Regulations

A. Authority for Stay and Reconsideration

The administrative stay (which is published elsewhere in this issue of the **Federal Register**) of the provisions concerning JP–4 and certain changes in sweet crude oil are being undertaken pursuant to section 307(d)(7)(B) of the Clean Air Act, 42 U.S.C. 7607(d)(7)(B). That provision authorizes the Administrator to stay the effectiveness of a rule for three months if the grounds for an objection arose after the period for public comment and if the objection is of central relevance to the outcome of the rule.

The grounds for an objection to the criteria for an individual baseline adjustment based on production of JP–4 jet fuel arose after the end of the public comment period, and before the time allowed for seeking judicial review. Basically, new information has been submitted to EPA concerning the number of parties potentially affected by the criteria adopted, and the ability of parties with more than one refinery to aggregate baselines and thereby avoid the adverse impacts of a failure to obtain an individual baseline adjustment. This information became available to EPA after the final criteria were adopted by EPA, and are directly relevant to the basic rationale for those criteria. This information was not available before that time, because it relates to the impact of the final criteria adopted by EPA as compared to the proposed criteria.

Similarly, the grounds for an objection to a lack of a baseline adjustment based on changes in the sulfur level of available crude oil arose after expiration of the period for public comment. It appears that the sulfur levels of crude have changed significantly since 1990 for certain areas of the country. Until EPA issued its final rules in December 1993, and more information was obtained on the sulfur levels of crude that would be available for use in 1995 and later, refiners that have historically relied on the availability of low sulfur crude could not identify for EPA the full impact of the final conventional gasoline requirements on their ability to continue marketing conventional gasoline.

Based on the above, and the Agency's interest in reconsidering these provisions through rulemaking, EPA is issuing a three-month administrative stay (which is published elsewhere in this issue of the **Federal Register**) of the effectiveness of the following rules, with certain conditions keyed to the requirements proposed today. The stay is structured such that it will only affect those persons who meet the requirements proposed today.

First, 40 CFR 80.91(e)(7)(i)(A) through (C) is being stayed for three months for all persons that meet the requirements proposed today regarding § 80.91(e)(7). In effect, persons who meet the proposed requirements would be able to receive a baseline adjustment under § 80.91(e)(7) if they also met the requirements of § 80.91(e)(7)(ii) and (iii). If a person does meet these conditions, then the Agency may approve a baseline adjustment under the terms of this stay, or under the terms of any stay issued through rulemaking.

Second, 40 CFR 80.101(b)(1)(ii) is being stayed for three months for all persons that meet the requirements proposed today as a new § 80.91(e)(8), and that comply with an annual average sulfur level of 125% of the compliance baseline that would apply under the new § 80.91(e)(8) proposed today. (See the Option 1 discussion in Section III.B. above.) In effect, the stay would only affect those persons who meet the proposed requirements for a baseline adjustment and who also meet the annual average sulfur level for conventional gasoline that would apply if they received a baseline adjustment under this proposal.

EPA is also proposing to stay these provisions by rule, pending completion of this rulemaking. If EPA does not finalize the changes proposed today, then EPA would revise any such baseline established during the stay to conform with the final action taken by the Agency. An appropriate time period would be allowed before a revised baseline would become effective. The terms of the 3 month administrative stay and any stay issued through rulemaking would apply to all gasoline produced from January 1, 1995 through to the end of any such stay.

B. Proposal for a Stay Pending Rulemaking

As described earlier, EPA is issuing a three month administrative stay of certain provisions pending reconsideration by the Agency. The authority for this three month administrative stay is section 307(d)(7)(B) of the Act. Since EPA may not be able to complete its reconsideration and this rulemaking during this time period, EPA proposes to extend the stay until final action is taken on the regulatory changes proposed herein. EPA requests public comment on this extension of the stay during reconsideration and rulemaking.

VI. Confidentiality of Information Submitted for Individual Baselines

A. Introduction

The final regulations issued by EPA in December 1993 determined that certain information submitted by refiners or

importers would not be considered confidential. In addition, EPA stated that it would publish a portion of this information. This information concerns the individual baseline assigned to refiners and importers for use in the conventional and reformulated gasoline program, as well as information submitted by these parties in their petition for a baseline. See 40 CFR 80.93(b)(6).

Persons affected by this provision sought judicial review, objecting to the release of this information on grounds of business confidentiality. *American Petroleum Institute* v. *U.S. Environmental Protection Agency,* No. 94–1138 (D.C. Cir.), and consolidated case *Texaco, Inc. and Star Enterprises* v. *U.S. Environmental Protection Agency,* No. 94–1143 (D.C. Cir.). Based on discussions with these parties, EPA has decided to reconsider this provision and is proposing to revise it. Under the proposal, only a portion of this information would be published, the exhaust emissions values assigned as an individual baseline. Issues concerning claims of business confidentiality for the remaining information would be resolved under EPA's regulations on ''Confidentiality of Business Information,'' 40 CFR Part 2 subpart B.

B. Background

The conventional gasoline regulations are based in large part on the use of individual baselines for refiners and importers, while their use in the reformulated gasoline program is limited to the first three years of the program. The individual baseline reflects the average quality of a refiner's or importer's gasoline for the year 1990. The standards for conventional gasoline are generally expressed in terms of a refiner's or importer's individual baseline, so that compliance with the standards is measured by comparing current production of conventional gasoline against the individual baseline, on an annual basis. For example, under the simple model for conventional gasoline, a refiner's annual average for exhaust benzene emissions may not exceed their compliance baseline, and the annual averages for sulfur, olefins and T–90 may not exceed 125 percent of their compliance baseline value for these parameters. 40 CFR 80.101(b)(1). In most cases, the compliance baseline is the same as the individual baseline. 40 CFR 80.101(f). For reformulated gasoline, certain standards applicable during 1995 through 1997 are also expressed in terms of a refiner's or importer's individual baseline. 40 CFR 80.41(H)(2).

EPA assigns an individual baseline after reviewing the individual baseline values for various fuel parameters, the motor vehicle exhaust emissions levels calculated from such parameters, individual 1990 baseline gasoline volumes, and the blendstock to gasoline ratios for 1990 through 1993, all submitted by the refiner or importer. This information would be deemed not confidential under EPA's current regulations. In addition, under the current regulations, EPA would publish the individual emissions standard for each refiner or importer, as well as the sulfur, olefins and T–90 standard noted above. 40 CFR 80.93(b)(6).

C. Proposal

EPA remains concerned that the emissions standards for refiners and importers should continue to be public. Therefore, EPA is proposing to publish the individual baseline values for exhaust emissions that comprise a refiner or importer's standards. EPA is proposing that the standards for sulfur, olefins and T–90 applicable during 1995 through 1997 not be published, and that the reporting requirements be revised so a refiner or importer would have to note whether and how much their annual average for these values exceeded their individual baseline value. This latter information would be considered non-confidential. This would effectively provide the same benefits as publishing the baseline values for these three parameters as it would clearly show whether a refiner or importer violated the standards applicable for these fuel parameters. In addition, requests for release of other baseline information would be governed by the regulations on the confidentiality of business information at 40 CFR Part 2 subpart B. EPA is proposing this change so that the factual and legal issues concerning disclosure of this information may be resolved on a case-by-case basis under EPA's CBI rules.

For a discussion of industry concerns regarding this issue and EPA's rationale behind its proposal, see the support document for this rule, ''Regulation of Fuels and Fuel Additives: Standards for Reformulated and Conventional Gasoline—Detailed Discussion and Analysis'', Air Docket A–95–03.

VII. Environmental and Economic Impacts

The environmental impacts of today's proposal are minimal, as discussed above. Additionally, economic impacts are generally beneficial to affected refiners due to the additional flexibility proposed in today's notice. Minimal anti-competitive effects are expected. The environmental and economic impacts of the reformulated gasoline program are described in the Regulatory Impact Analysis supporting the December 1993 rule, which is available in Public Docket A–92–12 located at Room M–1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

VIII. Public Participation

EPA desires full public participation in arriving at its final decisions and solicits comments on all aspects of this proposal. Wherever applicable, full supporting data and detailed analysis should also be submitted to allow EPA to make maximum use of the comments. All comments should be directed, by [30 days after publication] to the EPA Air Docket, Docket A–95–03 (See **ADDRESSES**).

Any proprietary information being submitted for the Agency's consideration should be markedly distinguished from other submittal information and clearly labelled ''Confidential Business Information.'' Proprietary information should be sent directly to the contact person listed above, and not to the public docket, to ensure that it is not inadvertently placed in the docket. Information thus labeled and directed shall be covered by a claim of confidentiality and will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR Part 2. If no claim of confidentiality accompanies a submission when it is received by EPA, it may be made available to the public without further notice to the commenter.

IX. Compliance With the Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980 requires federal agencies to examine the effects of their regulations and to identify any significant adverse impacts of those regulations on a substantial number of small entities. Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities. In fact, today's proposals are designed to promote successful implementation of the anti-dumping requirements of the reformulated gasoline program for all affected parties and to minimize any adverse competitive impacts by virtue of the proposal to report individual baseline emissions and not fuel parameters.

X. Administrative Designation

Pursuant to Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the executive order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this notice of proposed rulemaking is not a ''significant regulatory action''.

XI. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and implementing regulations, 5 CFR Part 1320, do not apply to this action as it does not involve the collection of information as defined therein.

XII. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate; or by the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local or tribal governments in the aggregate, or to the private sector. This action has the net effect of reducing burden of the reformulated gasoline program on regulated entities. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

XIII. Statutory Authority

The statutory authority for the actions proposed today is granted to EPA by Sections 114, 211 (c) and (k) and 301 of the Clean Air Act, as amended; 42 U.S.C. 7414, 7545 (c) and (k), and 7601.

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, Gasoline, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: May 25, 1995.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 80 of title 40 of the Code of Federal Regulations is amended as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: Sections 114, 211, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7545 and 7601(a)).

2. Section 80.75 is amended by removing ''and'' at the end of paragraph (b)(2)(ii)(F), by adding a semi-colon in place of the period at the end of paragraph (b)(2)(ii)(G), and adding paragraphs (b)(2)(ii) (H), (I), and (J) to read as follows:

§ 80.75 Reporting requirements.

* * * * *

(b) * * *

(2) * * *

(ii) * * *

(H) The difference between the applicable sulfur content standard under § 80.41(h)(2)(i) in parts per million and the average sulfur content in parts per million, indicating whether the average is greater or lesser than the applicable standard;

(I) The difference between the applicable olefin content standard under § 80.41(h)(2)(i) in volume percent and the average olefin content in volume percent, indicating whether the average is greater or lesser than the applicable standard; and

(J) The difference between the applicable T90 distillation point standard under § 80.41(h)(2)(i) in degrees Fahrenheit and the average T90 distillation point in degrees Fahrenheit, indicating whether the average is greater or lesser than the applicable standard.

* * * * *

3. Section 80.91 is amended by revising paragraph (e)(7)(i) and adding paragraphs (e)(8) and (e)(9) to read as follows:

§ 80.91 Individual baseline determination.

* * * * *

(e) * * *

(7) * * *

(i) Baseline adjustments may be allowed, upon petition and approval (per § 80.93), if a refinery produced JP–4 jet fuel in 1990 and all of the following requirements are also met:

(A) Refinery type.

(*1*) The refinery is the only refinery of a refiner such that it cannot form an aggregate baseline with another refinery (per paragraph (f) of this section); or

(*2*) The refinery is one refinery of a multi-refinery refiner for which all of its refineries produced JP–4 in 1990 and each of the refineries also meets the requirements specified in paragraphs (e)(7)(i) (B) and (C) of this section; or

(*3*) The refinery is one refinery of a multi-refinery refiner for which not all of the refiner's refineries produced JP–4 in 1990.

(B) No refinery of the refiner produces reformulated gasoline. If any refinery of the refiner produces reformulated gasoline at any time in a calendar year, the compliance baseline of all its refineries receiving a baseline adjustment per this paragraph (e)(7) shall revert to each refinery's unadjusted baseline for that year and all subsequent years.

(C) 1990 JP–4 to gasoline ratio.

(*1*) For a refiner per paragraph (e)(7)(i)(A)(*1*) of this section, the ratio of its refinery's 1990 JP–4 production to its 1990 gasoline production must equal or exceed 0.15.

(*2*) For a refiner per paragraph (e)(7)(i)(A)(*2*) of this section, the ratio of each of its refinery's 1990 JP–4 production to its 1990 gasoline production must equal or exceed 0.15.

(*3*) For a refiner per paragraph (e)(7)(i)(A)(*3*) of this section, the ratio of the refiner's 1990 JP–4 production to its 1990 gasoline production must equal or exceed 0.15, when determined across all of its refineries.

* * * * *

(8) Baseline adjustments due to increasing crude sulfur content.

(i) Baseline adjustments may be allowed, upon petition and approval (per § 80.93), if a refinery meets all of the following requirements:

(A) The refinery does not produce reformulated gasoline. If the refinery

produces reformulated gasoline at any time in a calendar year, its compliance baseline shall revert to its unadjusted baseline values for that year and all subsequent years;

(B) Has an unadjusted baseline sulfur value of not more than 50 ppm;

(C) Is not aggregated with one or more other refineries per paragraph (f) of this section. If a refinery which received an adjustment per this paragraph (e)(8) subsequently is included in an aggregate baseline, its compliance baseline shall revert to its unadjusted baseline values for that year and all subsequent years;

(D) Would require refinery improvements of at least $10 million or 10 percent of the depreciated value of the refinery to comply with its unadjusted baseline;

(E) Can show that it could not reasonably or economically obtain crude oil from an alternative source that would permit it to produce conventional gasoline which would comply with its unadjusted baseline;

(F) Has experienced at least a 25% increase in the average sulfur content of the crude oil used in the production of gasoline in the refinery since 1990, calculated as follows:

$$\frac{(CSHI - CS90)}{CS90} \times 100 = CS\%CHG$$

Where:

CSHI=highest annual average crude slate per paragraph (e)(8)(ii)(B) of this section

CS90=1990 annual average crude slate sulfur per paragraph (e)(8)(ii)(A) of this section.

CS%CHG=percent change in average sulfur content of crude slate;

(G) Can show that gasoline sulfur changes are directly and solely attributable to the crude sulfur change, and not due to alterations in refinery operation nor choice of products.

(ii) The adjusted baseline sulfur value shall be calculated as follows:

(A) Determine the average sulfur content (ppm) of the crude slate utilized in the production of gasoline in the refinery in 1990;

(B) Determine the highest crude sulfur level (ppm) of the crude slate utilized in the production of gasoline in the refinery in 1994;

(C) Determine the adjusted baseline sulfur value as follows:

$$ASULF = \frac{CSHI}{CS90} \times BSULF$$

Where

ASULF=adjusted baseline sulfur value, ppm

BSULF=actual baseline sulfur value, ppm

CSHI=highest crude sulfur (ppm) per paragraph (e)(8)(ii)(B) of this section

CS90=1990 annual average crude slate sulfur per paragraph (e)(8)(ii)(A) of this section

(iii) In no case can the adjusted baseline sulfur value determined per paragraph (e)(8)(ii) of this section exceed the sulfur value specified in paragraph (c)(5)(iii) of this section.

(iv) All adjustments made pursuant to this paragraph (e)(8) must be accompanied by:

(A) Unadjusted and adjusted fuel parameters and emissions; and

(B) A narrative describing the situation, the types of calculations, and the reasoning supporting the types of calculations done to determine the adjusted values.

(9) Baseline adjustment for low sulfur and olefins.

(i) Baseline adjustments may be allowed, upon petition and approval (per § 80.93), if a refinery meets all of the following requirements:

(A) The unadjusted annual average baseline sulfur value is less than 30 ppm;

(B) The unadjusted annual average baseline olefin value is less than 1.0 vol%;

(C) Would require refinery improvements of at least $10 million or 10 percent of the depreciated value of the refinery to comply with its unadjusted baseline.

(ii) If a refinery is aggregated with one or more other refineries per paragraph (f) of this section, then no adjustment per this paragraph (e)(9) shall be allowed, and the unadjusted baseline shall be used in the aggregated baseline.

(iii) (A) The adjusted baseline shall have an annual average sulfur value of 30 ppm, and an annual average olefin value of 1.0 vol%.

(B) The adjusted baseline shall have a summer sulfur value of 30 ppm, and a summer olefin value of 1.0 vol%.

(C) The adjusted baseline shall have a winter sulfur value of 30 ppm, and a winter olefin value of 1.0 vol%.

* * * * *

4. Section 80.93 is amended by revising paragraph (b)(6) to read as follows:

§ 80.93 Individual baseline submission and approval.

* * * * *

(b) * * *

(6) Confidential business information.

(i) Upon approval of an individual baseline, EPA will publish the individual annualized baseline exhaust emissions, on an annual average basis, specified in paragraph (b)(5)(ii) of this section. Such individual baseline exhaust emissions shall not be considered confidential. In addition, the reporting information required under § 80.75(b)(2)(ii) (H), (I) and (J), and § 80.105(a)(4) (ii), (iii) and (iv) shall not be considered confidential.

(ii) Information in the baseline submission which the submitter desires to be considered confidential business information (per 40 CFR part 2, subpart B) must be clearly identified. If no claim of confidentiality accompanies a submission when it is received by EPA, the information may be made available to the public without further notice to the submitter pursuant to the provisions of 40 CFR part 2, subpart B.

* * * * *

5. Section 80.105 is amended by redesignating paragraph (a)(4) as paragraph (a)(4)(i) and adding paragraphs (a)(4) (ii), (iii), and (iv) to read as follows:

§ 80.105 Reporting requirements.

(a) * * *

(4)(i) * * *

(ii) If using the simple model, the difference between the applicable sulfur content standard under § 80.101(b)(1)(ii) in parts per million and the average sulfur content in parts per million, indicating whether the average is greater or lesser than the applicable standard;

(iii) If using the simple model, the difference between the applicable olefin content standard under § 80.101(b)(1)(iii) in volume percent and the average olefin content in volume percent, indicating whether the average is greater or lesser than the applicable standard; and

(iv) If using the simple model, the difference between the applicable T90 distillation point standard under § 80.101(b)(1)(iv) in degrees Fahrenheit and the average T90 distillation point in degrees Fahrenheit, indicating whether the average is greater or lesser than the applicable standard.

* * * * *

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